

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RANDALL C. MITCHELL,

Plaintiff,

Civil Action No. 14-CV-11346

vs.

HON. BERNARD A. FRIEDMAN

ABDELLATIF BADAWI, et al.,

Defendants.

**ORDER DENYING PLAINTIFF'S MOTION FOR
DEFAULT JUDGMENT AS TO DEFENDANT ADRAY**

and

**ORDER GRANTING DEFENDANT ADRAY'S
MOTION FOR SUMMARY JUDGMENT**

This matter is presently before the Court on plaintiff's motion for default judgment as to defendant Adray (docket entry 46) and defendant Adray's motion for summary judgment (docket entry 49). Magistrate Judge R. Steven Whalen has submitted two Reports and Recommendations ("R&Rs") in which he recommends that plaintiff's motion be denied (docket entry 57) and that defendant's motion be granted (docket entry 61). No party has objected to these R&Rs and the objection period has expired.

Having reviewed the complaint, the motion papers, and the R&Rs, the Court agrees with the magistrate judge's analysis and conclusions. Plaintiff's motion for default judgment must be denied because defendant Adray is not in default, as she has filed a motion for summary judgment. Defendant Adray's motion for summary judgment must be granted because, as to the Eighth Amendment claim, plaintiff's medical records plainly show that Adray did not deny or delay plaintiff medical care. As to the retaliation claim, plaintiff's medical records likewise plainly show

that Adray did not retaliate against plaintiff by denying or delaying care. The retaliation claim also fails procedurally, as plaintiff did not exhaust his grievance remedies prior to filing suit. Accordingly,

IT IS ORDERED that Magistrate Judge Whalen's R&Rs (docket entries 57 and 61) are hereby accepted and adopted as the findings and conclusions of the Court.

IT IS FURTHER ORDERED that plaintiff's motion for default judgment as to defendant Adray is denied.

IT IS FURTHER ORDERED that defendant Adray's motion for summary judgment is granted.

 s/ Bernard A. Friedman
BERNARD A. FRIEDMAN
SENIOR UNITED STATES DISTRICT JUDGE

Dated: February 22, 2016
Detroit, Michigan